



05-16-06

JPW

CERTIFICATE OF MAILING VIA EXPRESS MAIL

PURSUANT TO 37 C.F.R. § 1.10, I HEREBY CERTIFY THAT I HAVE A REASONABLE BASIS FOR BELIEF THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS EXPRESS MAIL "POST OFFICE TO ADDRESSEE," ON THE DATE INDICATED BELOW AND IS ADDRESSED TO:

MAIL STOP AMENDMENT  
HONORABLE COMMISSIONER FOR PATENTS  
P.O. Box 1450  
ALEXANDRIA, VA 22313-1450

CYNTHIA POSER

MAY 15, 2006

05/15/2006

DATE OF MAILING

EV588887502US

EXPRESS MAIL LABEL

U.S.S.N.:	10/797,220
FILING DATE:	03/10/2004
APPLICANT:	ALAN B. DUELL
GROUP ART UNIT:	1723
EXAMINER:	CHARLES E. COOLEY
ATTORNEY DOCKET NO.	HES 2003-IP-009653U1 (063718.0399)
TITLE:	"SYSTEM AND METHOD FOR MIXING WATER AND NON-AQUEOUS MATERIALS USING MEASURED WATER CONCENTRATION TO CONTROL ADDITION OF INGREDIENTS"

INCLUDED IN THIS MAILING FOR THE ABOVE-REFERENCED PATENT APPLICATION ARE:

1. Response to Restriction Requirement; and
2. Return postcard to acknowledge receipt of this item.

**ATTORNEY CONTACT:**

PAUL R. MORICO  
REG. NO. 35,960  
BAKER BOTTS L.L.P.  
TELEPHONE: 713.229.1732  
FACSIMILE: 713.229.7732  
EMAIL: PAUL.MORICO@BAKERBOTTSCOM  
PTO CUSTOMER ID NUMBER: **023640**

**Life Application of:**

§  
§ Group Art Unit: **1723**

8

8

55

5

§ Examiner: **Cooley, Charles E.**

20

2

§ Atty. Docket No.:

2

**HES 2003-IP-009653U1**  
**063718.0399**

8

### CERTIFICATE OF MAILING VIA EXPRESS MAIL

MAIL STOP AMENDMENT

HONORABLE COMMISSIONER FOR PATENTS

P.O. Box 1450

ALEXANDRIA, VA 22313-1450

Cynthia Poser

**DATE OF MAILING:** May 15, 2006  
**EXPRESS MAIL LABEL:** EV588887502US

Dear Sir:

The Applicant responds to the Office Action mailed April 17, 2006 (the “Office Action”), as follows:

### **Response to Restriction Requirement**

In the Office Action, Examiner issued a restriction requirement under 35 U.S.C. § 121. (Office Action at 2.) In response to this restriction requirement, Applicant

elects for examination on the merits, without traverse, claims 1-32. Applicant withdraws claims 33-44 at this time. Applicant reserves the right to take up prosecution of claims 33-44 in an appropriate continuation, continuation-in-part, or divisional application.

**Response to Species Election Requirement**

In the Office Action, Examiner has required a species election under 35 U.S.C. § 121. (Office Action at 3.) With respect to this election requirement, the Examiner stated that:

This application contains claims directed to the following patentably distinct species:

- a. Species A: Figures 1 and 2;
- b. Species B: Figures 3 and 4.

Upon the election of either Group I or Group II, Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 18, and 33 appear to be generic.

(Office Action at 2-3.)

In response, the Applicant hereby provisionally elects Species A with traverse. In accordance with this election requirement, Applicant identifies claims 1-16, 18-31, and 33-44 as falling within the elected species. As noted above, claims 33-44 have been withdrawn in response to the restriction requirement imposed by Examiner. Claims 17 and 32 fall outside the elected species but are dependent on generic claims (1 and 18 respectively) and should be allowed if the corresponding generic claims are allowed. Applicant requests that these claims be held in abeyance pending resolution of the patentability of the corresponding generic claims. Applicant reserves the right to pursue additional species should a generic be allowed, or in a divisional or other continuing application.

SUMMARY

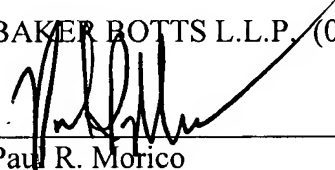
In light of the above amendments and remarks, Applicant respectfully submits that the application is now in condition for allowance and earnestly solicit early notice of the same. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile or electronic mail, as indicated below.

Applicant believes that there are no fees due in association with the filing of this Response. However, should the Commissioner deem that any fees are due, including any fees for any extensions of time, Applicant respectfully requests that the Commissioner accept this as a Petition therefore, and direct that any fees be debited from Baker Botts L.L.P., Deposit Account No. 02-0383, (*formerly Baker & Botts, L.L.P.*) Order Number 063718.0399.

Respectfully submitted,

BAKER BOTTS L.L.P. (023640)

Date: May 15, 2006

By:   
Paul R. Morico  
Registration No. 35,960  
One Shell Plaza  
910 Louisiana Street  
Houston, Texas 77002-4995  
Telephone: 713.229.1732  
Facsimile: 713.229.7732  
email: paul.morico@bakerbotts.com

ATTORNEY FOR APPLICANT